



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 8, 2019

The Honorable Dawn Buckingham  
Chair, Senate Committee on Nominations  
P.O. Box 12068  
Capitol Station  
Austin, Texas 78711

Re: Potential noncitizen voter fraud notification from the Texas Secretary of State

Dear Chair Buckingham:

As you know, pursuant to Section 70.005 of the Transportation Code, the Texas Secretary of State (SOS) and Department of Public Safety recently conducted a comparison of state databases and determined that a significant number of individuals who are potentially noncitizens are on Texas voter rolls. SOS notified county voter registrars of the specific potential noncitizens on their rolls to assist in their list maintenance responsibilities. When SOS notified the voter registrars, it also notified the Office of the Attorney General (OAG). OAG prosecutes election crimes, including the misdemeanor of unlawfully registering to vote and the felony of illegal voting.

During his confirmation hearing today, Senator Watson asked Secretary Whitley to inquire if the Office of the Attorney General (OAG) would refrain from investigating or prosecuting the SOS matters until counties can perform their list maintenance activity. Following that request, the SOS contacted our office, and we can provide the committee the following response.

Our undersized Election Fraud Unit was experiencing a backlog of over 80 complex cases even before the SOS notification. Simply put, even utilizing every resource we have, it would not be possible to investigate tens of thousands of SOS matters before the voter registrars should be able to complete their list maintenance activity. While the list maintenance and our investigations are separate processes, their process informs ours. In light of the foregoing, we plan to begin our investigations only once some counties have completed their list maintenance.

Additionally, I must note that in our role as prosecutor, we fulfill a duty even higher than that of an officer of the court. Instead, the duty of every prosecutor is not to convict, but to see that justice is done in every case. To us, justice means charging and prosecuting only if the facts show the person committed the offense and had the required criminal state of mind. Charging a defendant without that evidence is

injustice. Rest assured that, in the due course of time as we investigate these matters, OAG will faithfully discharge this duty.

Very truly yours,

A handwritten signature in blue ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

Ken Paxton  
Attorney General of Texas

cc: Senate Nominations Committee Members